

106TH CONGRESS  
1ST SESSION

# S. 1679

To amend the Internal Revenue Code of 1986 to implement enforcement of the Women’s Health and Cancer Rights Act of 1998.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 1999

Mr. BIDEN (for himself, Mr. KERRY, and Ms. MIKULSKI) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to implement enforcement of the Women’s Health and Cancer Rights Act of 1998.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Breast Reconstruction  
5       Implementation Act of 1999”.

6       **SEC. 2. REQUIRED COVERAGE FOR RECONSTRUCTIVE SUR-**  
7       **GERY FOLLOWING MASTECTOMIES.**

8       (a) IN GENERAL.—Subchapter B of chapter 100 of  
9       the Internal Revenue Code of 1986 (relating to other re-

1 quirements) is amended by adding at the end the fol-  
 2 lowing:

3 **“SEC. 9813. REQUIRED COVERAGE FOR RECONSTRUCTIVE**  
 4 **SURGERY FOLLOWING MASTECTOMIES.**

5 “(a) RECONSTRUCTIVE SURGERY.—A group health  
 6 plan that provides medical and surgical benefits with re-  
 7 spect to a mastectomy shall ensure that, in a case in which  
 8 a mastectomy patient elects breast reconstruction, cov-  
 9 erage is provided for—

10 “(1) all stages of reconstruction of the breast  
 11 on which the mastectomy has been performed, and

12 “(2) surgery and reconstruction of the other  
 13 breast to produce a symmetrical appearance;

14 in the manner determined by the attending physician and  
 15 the patient to be appropriate, and consistent with any fee  
 16 schedule contained in the plan.

17 “(b) PROHIBITION ON CERTAIN MODIFICATIONS.—

18 In implementing the requirements of this section, a group  
 19 health plan may not modify the terms and conditions of  
 20 coverage based on the determination by a participant or  
 21 beneficiary to request less than the minimum coverage re-  
 22 quired under subsection (a).

23 “(c) NOTICE.—A group health plan shall provide no-  
 24 tice to each participant and beneficiary under such plan  
 25 regarding the coverage required by this section in accord-

1   ance with regulations promulgated by the Secretary. Such  
 2   notice shall be in writing and prominently positioned in  
 3   any literature or correspondence made available or distrib-  
 4   uted by the plan and shall be transmitted—

5           “(1) in the next mailing made by the plan to  
 6           the participant or beneficiary,

7           “(2) as part of any yearly informational packet  
 8           sent to the participant or beneficiary, or

9           “(3) not later than January 1, 2002;

10   whichever is earlier.

11       “(d) PROHIBITION ON PENALTIES.—A group health  
 12   plan may not penalize or otherwise reduce or limit the re-  
 13   imbursement of a provider or specialist because the pro-  
 14   vider or specialist provided care to a participant or bene-  
 15   ficiary in accordance with this section.”.

16       (b) CLERICAL AMENDMENT.—The table of contents  
 17   for subchapter B of chapter 100 of the Internal Revenue  
 18   Code of 1986 is amended by adding at the end the fol-  
 19   lowing:

“Sec. 9813. Required coverage for reconstructive surgery following  
 mastectomies.”.

20       (c) EFFECTIVE DATES.—

21           (1) IN GENERAL.—The amendments made by  
 22   this section shall apply with respect to plan years be-  
 23   ginning on or after the date of enactment of this  
 24   Act.

1           (2) SPECIAL RULE FOR COLLECTIVE BAR-  
2           GAINING AGREEMENTS.—In the case of a group  
3           health plan maintained pursuant to 1 or more collec-  
4           tive bargaining agreements between employee rep-  
5           resentatives and 1 or more employers ratified before  
6           the date of enactment of this Act, the amendments  
7           made by this section shall not apply to plan years  
8           beginning before the later of—

9                   (A) the date on which the last collective  
10           bargaining agreements relating to the plan ter-  
11           minates (determined without regard to any ex-  
12           tension thereof agreed to after the date of en-  
13           actment of this Act), or

14                   (B) January 1, 2002.

15           For purposes of subparagraph (A), any plan amend-  
16           ment made pursuant to a collective bargaining  
17           agreement relating to the plan which amends the  
18           plan solely to conform to any requirement added by  
19           this section shall not be treated as a termination of  
20           such collective bargaining agreement.

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